

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

MFA.No. 63 of 2002(B)

OP(MV).2547/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA

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APPELLANT: RESPONDENT NO.3

**ORIENTAL INSURANCE COMPANY LTD.,
REP. BY ITS ASSISTANT MANAGER,
REGIONAL OFFICE, ERNAKULAM.**

BY ADV. SRI.ANCHAL C.VIJAYAN

RESPONDENTS: PETITIONERS AND OTHER RESPONDENTS IN THE OP

- 1. ALEYAMMA, W/O.M.A.THOMAS,
MULAYANICKAL, PUTHENVELLY, KOTTAYAM.**
- 2. RESINA THOMAS, D/O.M.A.THOMAS,
MULAYANICKAL, PUTHEVELLY, KOTTAYAM.**
- 3. RENI THOMAS, D/O.THOMAS,
MULAYANICKAL, PUTHEVELLY, KOTTAYAM.**
- 4. RINO THOMAS, S/O.THOMAS,
MULAYANICKAL, PUTHUVELLY, KOTTAYAM.**
- 5. A.S.SUBAIR, ARAKKAPARAMBIL,
THODUPUZZHA.**
- 6. JOSEPH, S/O.THOMAS,
KUNJULAKKATTIL HOUSE, VAZHAKULAM.**

BY ADV. SRI.M.J.THOMAS - R1 TO R4

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 04/12/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

M. F.A. NO.63/2002

ORDER ON CMP. NO. 277/2002 IN MFA. NO. 63/2002

DISMISSED

04.12.2007

SD/- J.B.KOSHY, JUDGE

SD/- K.T.SANKARAN , JUDGE

/TRUE COPY/

P.A. TO JUDGE

tss

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.No.63 OF 2002

Dated 4th December, 2007

JUDGMENT

Koshy,J.

A 53 year old man sustained fatal injuries in an accident while he was travelling in a tempo van on 25.11.1994 and succumbed to the injuries on 26.11.1994. The Tribunal awarded a total compensation of Rs.1,88,000/= and since it was found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company, the insurance company was directed to deposit the amount. The insurance company is questioning the award on two grounds. First contention is that the deceased was travelling in a goods vehicle and, therefore, he is not entitled to compensation. It is true that in view of the decision of the Supreme Court in **New India Assurance Co. Ltd. v. Satpal Singh** ((2000) 1 SCC 237) the Tribunal did not consider specifically the question whether he was a gratuitous passenger in a goods vehicle. The evidence adduced would show that he was a pineapple cultivator. He hired the vehicle for taking the load of pineapple and, therefore, his status is travelling as an owner of the goods to be carried in the vehicle. The Motor Vehicles Act was amended by Act 54 of 1994 with effect from 14.1.1994. After the amendment, the owner of the goods and authorised representatives are entitled to insurance

coverage. This accident occurred after the amendment. In the above view of the matter, we are of the view that insurance company cannot escape from liability.

2. The second contention was that the quantum of compensation awarded is high in the sense that a high income was taken by the Tribunal. The claimants' specific case was that he was getting Rs.1,500/= from pineapple cultivation and agricultural operation. It was also stated that he was employed as an Accountant in a Church and necessary certificate was also produced to show that he was getting Rs.1,500/= per month from the Church . It is true that the certificate shows that he was employed as accountant in a Church at that time, but, it was not stated what was the amount paid to him. The Tribunal has taken Rs.2,500/= as monthly income and not Rs.3,000/= as claimed by the claimant together from pineapple cultivation as well as income from working as accountant. He was maintaining a family consisting of his wife, two daughters and one son. We are of the view that the monthly income of Rs.2,500/= cannot be taken as very high. Tribunal has taken only 8 as the multiplier and calculated compensation. We are of the opinion that compensation awarded is only just and reasonable and no interference

is required.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.T.SANKARAN
JUDGE

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